

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (BA) NO.79 OF 2017.

Harish @ Ranjan Ramashankar Devari

..VS..

The State of Mah.P.S.O.P.S. Nagbheed, Tq.Nagbheed, Distt.Chandrapur.

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's orders

Mr.A.C.Jaltare Adv. with Mr.A.U.Niyogi,
 Adv. for the applicant.
 Mr.S.S.Doifode, APP for the State.

CORAM : P.N. DESHMUKH, J.

DATE : 6th MARCH, 2017.

1. This application is filed for grant of bail by the accused involved in Crime No.140 of 2015, registered at Nagbheed Police Station, Distt.Chandrapur, for the offence punishable under Sections 366 (A), 376(2)(i), 506 of the Indian Penal Code, under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(12)(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard learned counsel for the applicant and learned Additional Public Prosecutor for the State.

3. It is submitted on behalf of the applicant that he is falsely involved in the report lodged belatedly alleging to have

committed sexual intercourse with the prosecutrix, three months prior to her lodging report. By referring to the contents of report, it is further submitted that the same is lodged in respect of incident dated 6th December, 2015, however, admittedly, on that day prosecutrix was not subjected to sexual intercourse but as per contents of said report, on that day applicant took her to house of his friend Pankaj Karmeghe where applicant along with some of his friends had dinner with the prosecutrix and from there he took her to his house where her family members along with police arrived. It is, therefore, submitted that from the report lodged on 7th December, 2015 offence of kidnapping only can be said to be made out. It is, therefore, submitted that as there is no report in respect of offence of rape, application be allowed by imposing conditions as charge-sheet is filed.

4. Learned Additional Public Prosecutor opposed the application as per reply filed on record, however, has not disputed fact of prosecutrix not lodging any report in respect of incident of alleged sexual assault upon her by the applicant, three months prior to her lodging report, on 7th December, 2015. Learned Additional Public Prosecutor has further contended that though there is no report of said incident of sexual assault, medical papers on record establishes that after her physical examination, three months after the incident of rape, prosecutrix is certified to have sustained old rupture of hymen. It is therefore submitted that in view of evidence as aforesaid, application be rejected.

5. Perusal of report dated 7th December, 2015 lodged by prosecutrix reveals that she knows applicant who was working in the MSEB office where she used to visit to have water along with her friends. Applicant was known by prosecutrix about six months prior to the date of report. It is stated that three months prior to lodging of complaint, applicant took prosecutrix on his motorcycle in a room situated near village Bothli and had sexually assaulted her and left her near the T-point where from she proceeded by bus to her house and claims to have not disclosed about the incident to anyone, out of fear.

6. Last part of report reveals that on 6th December, 2015 applicant took the prosecutrix to one of his friend Pankaj where they had dinner and from there took her to his house and while she was present on the terrace, police arrived along with her family members. As such, from the contents of report which is lodged with reference to incident of 6th December, 2015, as rightly urged, offence of kidnapping only at the most can said to be made out. There is no sufficient cause put forth in the report to not to lodge report in respect of incident of alleged sexual assault upon prosecutrix which is said to have taken place prior to three months of her lodging report.

7. In view of facts as aforesaid, though medical report reveals that prosecutrix had ruptured hymen which was found old, since charge-sheet is filed and there is no immediate report of rape as aforesaid, application is liable to be allowed by imposing conditions as per order below.

Applicant Harish @ Ranjan Ramashankar Devari shall be released on bail in Crime No.140 of 2015 registered at Nagbheed Police Station, Distt. Chandrapur, on his executing P.R. Bond in the sum of Rs.25000/- with one surety in the like amount.

While on bail applicant shall not reside within the jurisdiction of Police Station Nagbheed, Distt.Chandrapur nor shall enter village Tiwali, Tq.Nagbheed, pending trial.

Applicant shall mark his presence with Police Station within whose jurisdiction he prefers to reside, once in three months on the first day of each such month pending trial.

Applicant shall produce proof of his residence to the Police Station within whose jurisdiction he will reside as well as Police Station Nagbheed and shall update the same in the event change of his address in future.

Application stands dispose of accordingly.

In view of disposal of Criminal Application (BA) No.79 of 2017, Criminal Application No.137 of 2017 stands disposed of as infructuous.

JUDGE

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